

AMENDED IN ASSEMBLY JULY 2, 2004  
AMENDED IN ASSEMBLY JUNE 9, 2004  
AMENDED IN SENATE JANUARY 5, 2004

**SENATE BILL**

**No. 928**

**Introduced by Senator Aanestad**  
**(Coauthor: Senator Ackerman)**

February 21, 2003

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An act to amend ~~Section 1635.5~~ Sections 1635.5, 1657, 1658, and 1658.2 of, and to add ~~Section~~ Sections 1625.2 and 1635.7 to, the Business and Professions Code, relating to dentistry.

LEGISLATIVE COUNSEL'S DIGEST

SB 928, as amended, Aanestad. Dentistry licensure.

(1) Existing law, the Dental Practice Act, provides for the licensure and regulation by the Dental Board of California of those engaged in the practice of dentistry. Existing law provides that a person practices dentistry if the person, among other things, manages or conducts as manager, proprietor, conductor, lessor, or otherwise, in any place where dental operations are performed.

This bill would exclude from the unlicensed practice of dentistry certain nonprofit entities that own or manage places where dental operations are performed if they comply with various requirements.

(2) Existing law authorizes a dentist to operate one mobile dental clinic or unit that is registered and operated in accordance with regulations adopted by the board. Existing law also imposes specified registration requirements on a dentist who maintains additional places of practice. Other provisions of existing law, the Mobile Health Care

*Services Act, require, subject to specified exemptions, licensure by the State Department of Health Services to operate a mobile service unit.*

*This bill would exempt certain mobile service units from the provisions of the Dental Practice Act that regulate mobile dental clinics or units and additional places of practice.*

*(3) Existing law requires a dentist who desires to have more than one place of practice to pay a fee to, and receive permission in writing from, the board prior to opening an additional place of practice. This requirement does not apply to a dentist who also practices in certain primary and specialty care clinics.*

*This bill would further exempt from this requirement a dentist who also practices in clinics operated by the federal government, a federally recognized Indian tribe, or a community clinic open for limited services no more than 20 hours per week. The bill would make corresponding changes.*

*(4) Existing law, the Dental Practice Act, authorizes the Dental Board of California to issue a license to a person who is currently licensed to practice dentistry in another state if the person satisfies other requirements, including proof that the applicant has been in clinical practice or a full-time faculty member for a minimum of 1000 hours per year for at least 5 years preceding his or her application.*

*This bill would instead require an out-of-state applicant to provide proof that he or she has either been in active clinical practice or a full-time faculty member in an accredited dental education program and in active clinical practice, for a total of at least 5000 hours in 5 of the 7 years preceding his or her application.*

*(5) Existing law requires an applicant to provide proof that he or she has not been subject to discipline in any state in which he or she has practiced and to sign a release allowing disclosure of specified information. Existing law requires the board to determine whether the disciplinary action and information warrants refusal to issue a license.*

*This bill would instead require the board to determine whether the disciplinary action or information presents sufficient evidence of a violation of unprofessional conduct, as defined in the act, to warrant submission of additional information or the denial of the application for licensure. The bill would require an applicant to make certain acknowledgments under penalty of perjury with respect to his or her application, thereby creating a new crime and imposing a state-mandated local program. The bill would authorize the board to contract with a 3rd party to review applications, and would require a*



person licensed under the provisions of the bill to fulfill continuing education requirements established by the board.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. *Section 1625.2 is added to the Business and*  
2 *Professions Code, to read:*  
3 *1625.2. (a) For purposes of subdivision (e) of Section 1625,*  
4 *the ownership or management, by a tax-exempt nonprofit*  
5 *corporation supported and maintained in whole or in substantial*  
6 *part by donations, bequests, gifts, grants, government funds, or*  
7 *contributions, that may be in the form of money, goods, or services,*  
8 *of a place where dental operations are performed, shall not be*  
9 *construed to be the unlicensed practice of dentistry, as long as all*  
10 *of the following apply:*  
11 *(1) The entity obtains the board's approval to offer dental*  
12 *services pursuant to regulations adopted by the board.*  
13 *(2) The entity does nothing to interfere with, control, or*  
14 *otherwise direct the professional judgment of or provision of*  
15 *dental services by a licensee or dental assistant acting within his*  
16 *or her scope of practice as defined in this chapter.*  
17 *(3) The licensees and dental assistants of the entity providing*  
18 *services are in compliance with all applicable provisions of this*  
19 *chapter.*  
20 *(4) The entity is otherwise in compliance with this chapter and*  
21 *all other applicable provisions of state and federal law.*  
22 *(b) This section does not apply to any of the following entities:*  
23 *(1) A primary care clinic that is licensed pursuant to*  
24 *subdivision (a) of Section 1204 of the Health and Safety Code.*  
25 *(2) A primary care clinic that is exempt from licensure pursuant*  
26 *to subdivision (b), (c), or (h) of Section 1206 of the Health and*  
27 *Safety Code.*

1 (3) *A clinic owned or operated by a public hospital or health*  
2 *system.*

3 (4) *A clinic owned and operated by a hospital that maintains*  
4 *the primary contract with a county government to fill the county's*  
5 *role under Section 17000 of the Welfare and Institutions Code.*

6 SEC. 2. Section 1635.5 of the Business and Professions Code  
7 is amended to read:

8 1635.5. (a) Notwithstanding Section 1634, the board may  
9 grant a license to practice dentistry to an applicant who has not  
10 taken an examination before the board, if the applicant submits all  
11 of the following to the board:

12 (1) A completed application form and all fees required by the  
13 board.

14 (2) Proof of a current license issued by another state to practice  
15 dentistry that is not revoked or suspended or otherwise restricted.

16 (3) Proof that the applicant has either been in active clinical  
17 practice or has been a full-time faculty member in an accredited  
18 dental education program and in active clinical practice for a total  
19 of at least 5,000 hours in five of the seven consecutive years  
20 immediately preceding the date of his or her application under this  
21 section. The clinical practice requirement shall be deemed met if  
22 documentation of any of the following is submitted:

23 (A) The applicant may receive credit for two of the five years  
24 of clinical practice by demonstrating completion of a residency  
25 training program accredited by the American Dental Association  
26 Commission on Dental Accreditation, including, but not limited  
27 to, a general practice residency, an advanced education in general  
28 dentistry program, or a training program in a specialty recognized  
29 by the American Dental Association.

30 (B) If an applicant provides proof of at least two years of  
31 clinical practice or receives two years of credit as defined in  
32 subparagraph (A), he or she may commit to completing the  
33 remainder of the five-year requirement by filing with the board a  
34 copy of a pending contract to practice dentistry full time in a  
35 primary care clinic licensed under subdivision (a) of Section 1204  
36 of the Health and Safety Code or in a primary care clinic exempt  
37 from licensure pursuant to subdivision (c) of Section 1206 of the  
38 Health and Safety Code, or in a clinic owned or operated by a  
39 public hospital or health system, or a clinic owned and operated by  
40 a hospital that maintains the primary contract with a county

1 government to fill the county's role under Section 17000 of the  
2 Welfare and Institutions Code. The board may periodically request  
3 verification of compliance with these requirements, and may  
4 revoke the license upon a finding that the employment  
5 requirement, or any other requirement of this subparagraph, has  
6 not been met. ~~For the purposes of this paragraph, "full time"~~  
7 ~~means a minimum of 32 hours per week providing direct dental~~  
8 ~~services. The board may, by regulation, define "full time" for the~~  
9 ~~purposes of this paragraph.~~

10 (C) If an applicant provides proof of at least two years of  
11 clinical practice or receives two years of credit as defined in  
12 subparagraph (A), he or she may commit to completing the  
13 remainder of the five-year requirement by filing with the board a  
14 copy of a pending contract to teach or practice dentistry full time  
15 in an accredited dental education program as approved by the  
16 Dental Board of California. The board may periodically request  
17 verification of compliance with these requirements, and may  
18 revoke the license upon a finding that the employment  
19 requirement, or any other requirement of this subparagraph, has  
20 not been met.

21 (4) Proof that the applicant has not been subject to disciplinary  
22 action by any state in which he or she is or has been previously  
23 licensed to practice dentistry. If the applicant has been subject to  
24 disciplinary action, the board shall review that action to determine  
25 if it presents sufficient evidence of a violation of Article 4  
26 (commencing with Section 1670) to warrant the submission of  
27 additional information from the applicant or the denial of the  
28 application for licensure.

29 (5) A signed release allowing the disclosure of information  
30 from the National Practitioner Data Bank and the verification of  
31 registration status with the federal Drug Enforcement  
32 Administration. The board shall review this information to  
33 determine if it presents sufficient evidence of a violation of Article  
34 4 (commencing with Section 1670) to warrant the submission of  
35 additional information from the applicant or the denial of the  
36 application for licensure.

37 (6) Proof that the applicant has not failed the examination for  
38 licensure to practice dentistry under this chapter within five years  
39 prior to the date of his or her application for a license under this  
40 section.

1 (7) An acknowledgement by the applicant executed under  
2 penalty of perjury and automatic forfeiture of license, of the  
3 following:

4 (A) That the information provided by the applicant to the board  
5 is true and correct, to the best of his or her knowledge and belief.

6 (B) That the applicant has not been convicted of an offense  
7 involving conduct that would violate Section 810.

8 (8) Documentation of 50 units of continuing education  
9 completed within two years of the date of his or her application  
10 under this section. The continuing education shall include the  
11 mandatory coursework prescribed by the board pursuant to  
12 subdivision (b) of Section 1645.

13 (9) Any other information as specified by the board to the  
14 extent it is required of applicants for licensure by examination  
15 under this article.

16 (b) The board shall provide in the application packet to each  
17 out-of-state dentist pursuant to this section the following  
18 information:

19 (1) The location of dental manpower shortage areas that exist  
20 in the state.

21 (2) Those not-for-profit clinics and public hospitals seeking to  
22 contract with licensees for dental services.

23 (c) (1) The board shall review the impact of this section on the  
24 availability of dentists in California and report to the appropriate  
25 policy and fiscal committees of the Legislature by January 1, 2005.  
26 The report shall include a separate section providing data specific  
27 to those dentists who intend to fulfill the alternative clinical  
28 practice requirements of subparagraph (B) of paragraph (3) of  
29 subdivision (a). The report shall include, but not be limited to, all  
30 of the following:

31 (A) The total number of applicants from other states who have  
32 sought licensure.

33 (B) The number of dentists from other states licensed pursuant  
34 to this section, as well as the number of licenses not granted and  
35 the reasons why each license was not granted.

36 (C) The location of the practice of dentists licensed pursuant to  
37 this section.

38 (D) The number of dentists licensed pursuant to this section  
39 who establish a practice in a rural area or in an area designated as  
40 having a shortage of practicing dentists or no dentists at all.

(E) The length of time dentists licensed pursuant to this section maintained their practice in the reported location. This information shall be reported separately for dentists described in subparagraphs (C) and (D).

(2) In identifying a dentist's location of practice, the board shall use Medical Service Study Areas or other appropriate geographic descriptions for regions of the state.

(3) If appropriate, the board may report the information required by paragraph (1) separately for primary care dentists and specialists.

(d) The board is authorized to contract with a third party or parties to review applications filed under this section and to advise the board as to whether the applications are complete. The contracting party, its agents, and its employees shall agree to be bound by all provisions of law applicable to the board, its members, and staff, governing custody and confidentiality of materials submitted by applicants for licensure.

~~SEC. 2.~~

SEC. 3. Section 1635.7 is added to the Business and Professions Code, to read:

1635.7. Any person licensed pursuant to Section 1635.5 shall be required to fulfill continuing education requirements established by the board pursuant to Section 1645 before his or her license is eligible to be renewed in accordance with this chapter.

~~SEC. 3.~~

SEC. 4. *Section 1657 of the Business and Professions Code is amended to read:*

1657. (a) A licensed dentist may operate one mobile dental clinic or unit registered as a dental office or facility. The mobile dental clinic or unit shall be registered and operated in accordance with regulations established by the board, provided ~~such~~ *these* regulations are not designed to prevent or lessen competition in service areas. A mobile dental clinic or unit registered and operated in accordance with the ~~rules~~ *board's regulations* and ~~which that~~ *which* has paid the fees, ~~which may be~~ established by the board, *including a mobile dental unit registered for the purpose specified in subdivision (d)*, shall otherwise be exempted from the provisions of this article and Article 3.5 (commencing with Section 1658).



(b) A mobile service unit, as defined in subdivision (b) of Section 1765.105 of the Health and Safety Code, and a mobile unit operated by an entity that is licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code mobile unit or that is exempt from licensure pursuant to subdivision (b), (c), or (h) of Section 1206 of the Health and Safety Code, are exempt from this article and Article 3.5 (commencing with Section 1658). Notwithstanding this exemption, the owner or operator of the mobile unit shall notify the board within 60 days of the date on which dental services are first delivered in the mobile unit, or the date on which the mobile unit's application pursuant to Section 1765.130 of the Health and Safety Code is approved, whichever is earlier.

(c) A licensee practicing in a mobile unit described in subdivision (b) is not subject to subdivision (a) as to that mobile unit.

(d) Notwithstanding subdivision (e) of Section 1625, a licensed dentist shall be permitted to operate a mobile dental unit provided by his or her property and casualty insurer as a temporary substitute site for the practice registered by him or her pursuant to Section 1650 as long as both of the following apply:

(1) The licensed dentist's registered place of practice has been rendered and remains unusable due to loss or calamity.

(2) The licensee's insurer registers the unit with the board in compliance with subdivision (a).

SEC. 5. Section 1658 of the Business and Professions Code is amended to read:

1658. (a) When any ~~licentiate~~ licensee hereunder desires to have more than one place of practice, he or she shall, prior to the opening of any additional office, make application therefor to the board, pay the fee required by this chapter, and receive permission in writing from the board to have ~~such~~ that additional place of practice.

"Place of practice" means any dental office where any act of dentistry is practiced as defined by Section 1625, and shall include ~~any such~~ a place of practice in which the applicant holds any proprietary interest of any nature whatsoever, or in which he or she holds any right to participate in the management or control thereof. A dentist who is the lessor of a dental office shall not be deemed to hold a proprietary interest in that place of practice, unless he or



1 *she* is entitled to participate in the management or control of the  
2 dentistry practiced there.

3 (b) This section shall not apply to a ~~licensee~~ *licensee* who  
4 practices dentistry outside his *or her* registered place of practice  
5 in any of the following places:

6 ~~(a)~~

7 (1) Facilities licensed by the State Department of Health  
8 Services.

9 ~~(b)~~

10 (2) Licensed health facilities as defined in Section 1250 of the  
11 Health and Safety Code.

12 ~~(c)~~

13 (3) Licensed clinics as defined in Section 1204 of, *or that are*  
14 *exempt from licensure under subdivision (b), (c), or (h) of Section*  
15 *1206 of, the Health and Safety Code.*

16 ~~(d)~~

17 (4) Licensed community care facilities as defined in Section  
18 1502 of the Health and Safety Code.

19 ~~(e)~~

20 (5) Schools of any grade level, whether public or private.

21 ~~(f)~~

22 (6) Public institutions including, but not limited to, federal,  
23 state, and local penal and correctional facilities.

24 ~~(g)~~

25 (7) Mobile units ~~which~~ *that* are operated by a public or  
26 governmental agency or a nonprofit or charitable organization and  
27 are approved by the board, provided that the mobile units meet all  
28 statutory or regulatory requirements.

29 ~~(h)~~

30 (8) The home of a nonambulatory patient when a physician or  
31 registered nurse has provided a written note that the patient is  
32 unable to visit a dental office.

33 SEC. 6. *Section 1658.2 of the Business and Professions Code*  
34 *is amended to read:*

35 1658.2. ~~“An additional—~~ (a) “Additional place of practice,”  
36 as used in this article, means any place of practice ~~which that~~  
37 increases the number of places of practice of the applicant and ~~shall~~  
38 ~~include any such~~ *includes an* additional office ~~which that~~ the  
39 applicant proposes to originally establish, either individually or in  
40 association with another, as well as ~~any~~ *an* established place of

1 practice ~~which~~ that the applicant acquires or proposes to acquire,  
2 in whole or in part, by purchase, repossession, reassignment, gift,  
3 devise, bequest, or operation of law, except as otherwise provided  
4 in this article.

5 (b) A practice location described in subdivision (b) of Section  
6 1658 does not constitute an additional place of practice.

7 SEC. 7. No reimbursement is required by this act pursuant to  
8 Section 6 of Article XIII B of the California Constitution because  
9 the only costs that may be incurred by a local agency or school  
10 district will be incurred because this act creates a new crime or  
11 infraction, eliminates a crime or infraction, or changes the penalty  
12 for a crime or infraction, within the meaning of Section 17556 of  
13 the Government Code, or changes the definition of a crime within  
14 the meaning of Section 6 of Article XIII B of the California  
15 Constitution.

